

**IN THE UNITED STATE DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. : 1:17cr00027
)	
JOEL A. SMITHERS,)	
Defendant)	

ORDER

This matter is before the court on the defendant's motion to allow Dr. Arnold Feldman, M.D., to have access to the medical records in the case and to allow him to file a late report prior to trial, (Docket Item No. 132) ("Motion"), regarding his proposed expert testimony at the trial commencing on April 29, 2019. Based upon the arguments and representations of counsel, the Motion is **GRANTED in part and TAKEN UNDER ADVISEMENT in part**, and it is **ORDERED** that defense counsel may provide Dr. Feldman with medical records and other materials provided by the Government in this matter, along with a copy of this Order, for his review.

It is **FURTHER ORDERED** that Dr. Feldman shall not disclose or disseminate materials received from the Government in relation to this matter, except for the purpose of assisting defense counsel in the defense of this case. Dr. Feldman shall ensure that any of his office personnel, to whom access is granted to allow him to perform his duties in relation to this matter, shall be given a copy of this Order and shall be bound by its terms. These materials are not to be disclosed to any other person, other than those persons assisting in the defense of this case,

and are not to be revealed to or discussed with any other person, except where necessary to assist defense counsel in the defense of this case.

Unauthorized disclosure of the materials provided to Dr. Feldman or other violation of this Order may be deemed a contempt of court pursuant to Title 18, United States Code, Section 401.

With regard to the portion of the Motion requesting permission for the defendant to file a late expert report prior to trial, it is **ORDERED** that defense counsel shall provide the Government, and file with the court, a written summary of Dr. Feldman's expected expert testimony as required by Federal Rules of Criminal Procedure Rule 16(b)(1)(C) by no later than April 29, 2019. The determination as to whether Dr. Feldman is allowed to offer expert testimony at trial and/or the opinions on which he is allowed to testify **are taken under advisement**.

ENTERED: April 18, 2019.

/s/ *Pamela Meade Sargent*

UNITED STATES MAGISTRATE JUDGE